

IN THE SUPREME COURT OF OHIO

STATE OF OHIO,	:	Date of Offense: June 1, 2002
	:	
Plaintiff--Appellee,	:	Trial Court Case No. 02 CR 275
	:	
-V-	:	Date of Final Judgment
	:	in Trial Court: February 8, 2007
	:	
PHILLIP L. ELMORE,	:	Trial Court Judge: Jon Spahr
	:	
Defendant--Appellant	:	07-0475

PRAECIPE TO COURT REPORTER IN CAPITAL CASE

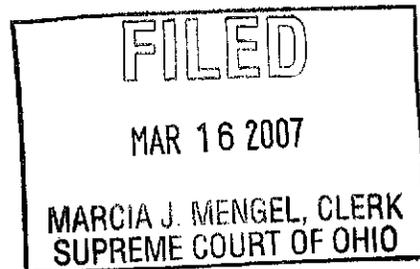
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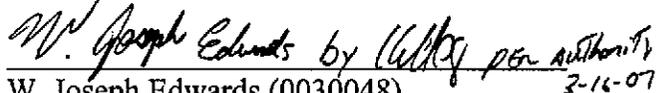


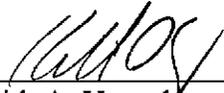
REQUEST TO FILE TRANSCRIPT

TO: Jacqueline Gainer, Court Reporter
Court of Common Pleas
Licking County, Ohio

Please immediately prepare the sentencing transcript of proceedings from February 8, 2007, in conformance with S.Ct.Prac.R. XIX. Section 3, and deliver to the clerk of the common pleas court.

Respectfully submitted,


W. Joseph Edwards (0030048) *per authority 2-16-07*
(Counsel of Record)
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(614) 228-0523


Keith A. Yeazel (0041274)
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(614) 228-7005

Counsel for Appellant

CERTIFICATE OF SERVICE

A copy of the foregoing Notice of Appeal was served upon:

Robert L. Becker
Licking County Prosecuting Attorney
20 South Second Street- Suite 201
Newark, Ohio 43055

Jacqueline Gainer, Court Reporter
Licking County Courthouse

Newark, Ohio 43055

by United States Mail, Postage Prepaid, this 16th day of March, 2007.



Keith A. Yeazel

NOTICE OF APPEAL OF APPELLANT PHILLIP L. ELMORE

Appellant Phillip L. Elmore hereby gives notice of appeal to the Supreme Court of Ohio from the judgment of the Licking County Court of Common Pleas, entered in Case No. 02 CR 275 on February 8, 2007.

This is an appeal of right involving a case in which the death penalty has been imposed for an offense committed on or after January 1, 1995.

Respectfully submitted,


W. Joseph Edwards (0030048) *per authority* 3-16-07
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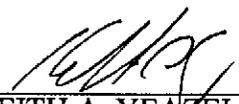
Counsel for Appellant

CERTIFICATE OF SERVICE

A copy of the foregoing Notice of Appeal was served upon:

Robert L. Becker
Licking County Prosecuting Attorney
20 South Second Street- Suite 201
Newark, Ohio 43055

by United States Mail, Postage Prepaid, this 16th day of March, 2007.


KEITH A. YEAZEL

In the Court of Common Pleas, Licking County, Ohio

LICKING COUNTY
COMMON PLEAS COURT

State of Ohio,

2007 FEB -8 A 10:55

Plaintiff,

vs.

Case No. 02 CR 275

FILED
GARY R. WALTERS
CLERK

Phillip L. Elmore,

Defendant.

JUDGMENT ENTRY

On the 8th day of February, 2007, came the State of Ohio through Assistant Prosecutor Kenneth Oswald, and also came the defendant, personally, and with legal counsel, W. Joseph Edwards and Keith Yeazel, and this cause came on for resentencing on the noncapital convictions pursuant to a remand from the Ohio Supreme Court, the defendant having been found guilty by a jury and convicted of the following:

Count 2, Murder, in violation of O.R.C. Section 2903.02(B);

Count 3, Kidnapping, in violation of O.R.C. Section 2905.01(B)(1) and/or (B)(2);

Count 4, Aggravated Robbery, in violation of O.R.C. Section 2911.01(A)(1);

Count 5, Aggravated Burglary, in violation of O.R.C. Section 2911.11(A)(1) and/or (A)(2).

Count 6, Grand Theft (Motor Vehicle), in violation of O.R.C. Section 2913.02(A)(1).

The Court further finds that the defendant having elected previously not to request the preparation of a presentence investigation report, no such report has been prepared and, therefore, no presentence investigation report has been considered by this Court.

The Court then afforded counsel an opportunity to speak on behalf of the defendant and addressed the defendant personally, affording the defendant an opportunity to make a statement in the form of mitigation and to present information regarding the existence or nonexistence of the factors the Court has considered and weighed.

The Court has considered the record, oral statements, and the Presentence Investigation prepared, as well as the principles and purposes of sentencing under Ohio Revised Code Section 2929.11, and has balanced the seriousness and recidivism factors under Ohio Revised Code Section 2929.12.

Judge

Jan R. Spahr
740-670-5770

Judge

Thomas M. Marcelain
740-670-5777

Courthouse

Re Newark, OH 43055

IT IS ORDERED that the defendant be sentenced as follows:

Count 2, Murder, the Court merges this count with the Count 1, the aggravated murder and no sentence is imposed;

Count 3, Kidnapping, ten (10) years confinement;

Count 4, Aggravated Robbery, ten (10) years confinement;

Count 5, Aggravated Burglary, ten (10) years confinement;

Count 6, Grand Theft, eighteen (18) months confinement;

Count 3 shall run concurrently with all other counts;

Counts 4, 5, and 6, shall all run consecutively to one another and consecutive to Count 1.

The Court finds that the minimum sentence in this case would not adequately punish the defendant nor would it address the seriousness of the offense committed and would demean the seriousness of the offenses.

The Court further orders that the defendant shall pay the costs of prosecution herein.

The Court finds that the defendant has been incarcerated continuously from June 5, 2002, until this date, to wit: February 8, 2007, for a total period of 1,708 days, and grants the defendant jail credit in Count 4 only.

The Court then, pursuant to Criminal Rule 32, advises the defendant that he has a right to appeal; that if he is unable to pay the cost of appeal, he has the right to an appeal without payment of costs; that if he is unable to obtain counsel for an appeal, counsel will be appointed by the Court without cost to him; that if he is unable to pay the costs of documents necessary for an appeal, such documents will be provided to him without cost; and that he has the right to have a notice of appeal timely filed in his behalf.

The Court further notifies the defendant that post release control is mandatory in this case for a period of five years. Pursuant to Revised Code 2967.28, the Adult Parole Authority will supervise the defendant. The Adult Parole Authority can return the defendant to prison for misconduct under post release control, and if the defendant commits a felony while under post release control, the court in that new felony case can return the defendant to prison in this case in addition to the new felony. The defendant is ordered to serve as part of this sentence any term of post release control imposed by the parole board, and any prison term for violation of that post release control.

At the request of the defendant, the Court appoints W. Joseph Edwards and Keith Yeazel as appellate counsel in this case.

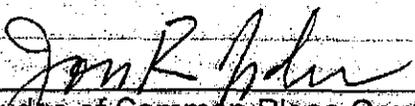
The Court is not imposing a fine in this case finding that the defendant is indigent and unable to pay a fine.

The Court orders that all appeal costs, including the costs of documents necessary to prosecute the appeal be provided to the defendant without cost and at State's expense.

The Court further orders that the defendant be remanded to the custody of the Licking County Sheriff's Department for transportation forthwith to the Ohio Department of Corrections.

This being a capital case, the defendant has no right to an appellate bond and none is set in this action.

The Clerk of this Court is directed to serve notice of this judgment and its date of entry upon the journal upon the following: Robert Becker, Prosecuting Attorney; W. Joseph Edwards and Keith Yeazel, counsel for the defendant; and the Licking County Sheriff's Department.



Judge of Common Pleas Court
Jen R. Spahr

cc: Licking County Prosecutor
Adult Court Services Department
W. Joseph Edwards, Esq.
Keith Yeazel, Esq.